

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.

★ JAN 14 2020 ★

RD 1-14-2020  
EF

TRUSTEES of the LOCAL 1034 PENSION  
TRUST FUND,

BROOKLYN OFFICE

Plaintiffs,  
-against-

N. CANCRO, INC. d/b/a CANCRO FUNERAL  
HOME INC.; XYZ CORPORATIONS 1-10; and  
JOHN AND JANE DOES 1-10,

Defendants.

NOT FOR PUBLICATION  
**MEMORANDUM & ORDER**  
18-CV-07412 (CBA)(RML)

AMON, United States District Judge:

Plaintiffs, the trustees of the Local 1034 Pension Trust Fund, brought this action against defendant N. Cancro, Inc. d/b/a Cancro Funeral Home, pursuant to section 4301 of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1451. (ECF Docket Entry ("D.E.") # 1.) Plaintiffs seek withdrawal liability owed by the defendant to the trust fund in addition to accrued interest, liquidated damages, attorney's fees, and costs. (*Id.* ¶¶ 1-2.)

This suit was filed on December 28, 2018. (*Id.*) The defendant<sup>1</sup> failed to appear or otherwise defend the action. (See generally Docket 1:18-cv-07412-CBA-RML.) On April 18, 2019, plaintiffs requested a certificate of default, (D.E. # 7), and the Clerk of Court entered the requested default on April 22, 2019, (D.E. # 8). On July 3, 2019, plaintiffs moved this Court for a default judgment, (D.E. # 9), and the Court referred the motion for default judgment to the Honorable Robert M. Levy, United States Magistrate Judge, for report and recommendation, (D.E. dated 7/3/2019). Magistrate Judge Levy ordered the defendant to serve any opposition to the motion for default judgment by August 16, 2019, (D.E. # 10), and certificate of service of that order upon the defendant was filed on the docket on July 22, 2019, (D.E. # 12). The defendant did

<sup>1</sup> Plaintiffs have never identified nor sued any defendants other than N. Cancro, despite listing anonymous defendants in their complaint.

not file any opposition. (See generally Docket 1:18-cv-07412-CBA-RML.) On December 18, 2019, Magistrate Judge Levy issued a thorough and well-reasoned R&R recommending that the Court grant the plaintiffs' motion for default judgment and award damages in the amounts specified in the R&R. (D.E. # 13.)

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted).

The Court has reviewed the record and, finding no clear error, adopts the R&R. Accordingly, the Court grants the motion for default judgment and awards damages in accordance with page 17 of the R&R.

SO ORDERED.

Dated: January 13, 2020  
Brooklyn, New York

s/C<sup>o</sup> Carol Bagley Amon

Carol Bagley Amon  
United States District Judge